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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIFTH APPELLATE DISTRICT

In re T.L., a Person Coming Under the Juvenile  
Court Law.

TULARE COUNTY HEALTH AND HUMAN  
SERVICES AGENCY,

Plaintiff and Respondent,

v.

JESSICA C.,

Defendant and Appellant.

F078098

(Super. Ct. No. JJV070577A)

**OPINION**

APPEAL from orders of the Superior Court of Tulare County. Robin L. Wolfe,  
Judge.

Michelle L. Jarvis, under appointment by the Court of Appeal, for Defendant and  
Appellant.

Deanne H. Peterson, County Counsel, John A. Rozum and Abel C. Martinez,  
Deputy County Counsel, for Plaintiff and Respondent.

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## **INTRODUCTION**

Appellant Jessica C. (mother) appeals from orders terminating her parental rights to her 10-month-old daughter, T.L. T.L. was removed from mother's care and adjudged a dependent child due to mother's untreated mental and emotional problems, which caused instability for T.L. particularly because mother frequently moved from place to place. Mother participated in family reunification services but continued the pattern of frequent movement. Her reunification services were ultimately terminated at the 18-month status review hearing because mother had not been able to secure stable and permanent housing for T.L. and had not provided proof of compliance with her mental health services. At the Welfare and Institutions Code<sup>1</sup> section 366.26 hearing, her parental rights were terminated, and a permanent plan of adoption was selected for T.L.

Mother raises two issues on appeal. She contends the juvenile court committed reversible error by summarily denying her section 388 petition to vacate the court's order to terminate her reunification services and issue a new order reinstating services. Mother argues she made a prima facie case to show the changed order was in the best interest of T.L. by alleging she had secured stable housing, entitling her to a hearing on the merits of her petition. Mother also contends the court committed reversible error by terminating her parental rights, arguing the record did not support by clear and convincing evidence mother was an unfit parent. Her contention is based on the assertion the findings made at the 12- and 18-month status review hearings that return of T.L. to mother would be detrimental were solely based on mother's poverty-related housing instability in violation of her right to due process of law. We disagree with both contentions and affirm.

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code.

## **FACTUAL AND PROCEDURAL BACKGROUND<sup>2</sup>**

Mother and T.L., then 10 months old, came to the attention of social services on February 24, 2016, when a referral was made from a rescue mission in Los Angeles, alleging general neglect. The reporting party stated that mother arrived at the rescue mission with T.L. and reported she suffers from bipolar disorder and did not have any medication. Mother told and recanted statements regarding living in New Jersey, having a male 16-year-old son, and recently arriving from Mexico. Mother provided unreliable identifying documents, as to both herself and T.L. Mother was not receiving any financial aid for T.L. as she could not establish she was T.L.'s mother.

A social worker reported to the rescue mission and interviewed mother. Mother informed the social worker she recently moved to Los Angeles in order to receive assistance regaining Medi-Cal and CalWORKS for herself and T.L. She also stated she has a pending housing application in Fresno and would like help with it. Mother reported she had been diagnosed with anxiety and depression but does not take medication because she "chooses not to." Based on the statements of the reporting party and mother, the social worker determined that exigent circumstances existed to detain T.L. While the social worker was gathering more information and arranging for transportation for T.L., mother fled the rescue mission with T.L.

Detention proceedings were initiated in Los Angeles County, and T.L. was ordered detained at large on February 29, 2016. A protective custody warrant was issued for T.L., and an arrest warrant was issued for mother. On August 25, 2016, mother contacted a social worker in Los Angeles County by telephone. She reported that she had been living in Northern California, but moved to Cleveland, Ohio, because she found an affordable home. She also stated she was receiving cash aid and food stamps through

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<sup>2</sup> Father was a party to the underlying proceedings but is not a party to this appeal. We focus only on the facts that pertain to mother and her appeal.

California. She told the social worker it had been many years since she had been diagnosed with bipolar disorder. She was prescribed Zoloft and Seroquel to treat her disorder but did not take it regularly because it made her tired. T.L. is very active and mother needs to stay awake to supervise her. Mother stated she only takes her medication when she feels she needs it. Mother told the social worker she fled the rescue mission because she did not want T.L. to be taken from her.

On September 28, 2016, mother and T.L. were located at the San Ysidro border, where mother was attempting to reenter the United States from Mexico. T.L. was taken into protective custody and placed in foster care. Mother informed border officials she had been visiting T.L.'s father in Mexico. T.L. was reported to look malnourished and unbathed. Her hair was "hard." The official stated he did not notice any display of mental illness from mother but that she appeared to have a hard time taking care of T.L.

On November 1, 2016, mother had a mental health evaluation by a social worker in Fresno County, where, it appears from the record, she was living. The social worker's report indicated that mother experienced significant impairment in the areas of her living arrangement, health, occupation, social support, and daily activities. Mother reported to the social worker she experiences mood swings, including getting very angry and very depressed, which causes her to want to isolate from others. She also reported she sleeps two hours per night.

On November 2, 2016, an amended section 300 petition was filed in Los Angeles County on behalf of T.L., alleging she came within the jurisdiction of the juvenile court under subdivision (b). The petition alleged:

“[T.L.’s] mother ... has a mental and emotional problems, including Bipolar disorder which renders the mother unable to provide regular care and supervision of the child. The mother has failed to take psychotropic medication as prescribed. The mother’s mental disorder prevents her from maintaining a stable home for the child and is frequently moving which prevents the child from having stability. The mother’s untreated mental disorder, which affects her mental and emotional condition endangers the

child's physical and emotional health and safety and places the child at risk of serious harm."

The jurisdiction/disposition report indicated that T.L. had appropriate motor control but that her vocabulary was lacking. Her care provider reported she had only heard T.L. say "mama" and "papa." When the care provider first began to care for T.L., T.L. would pinch and slap but had since stopped. T.L. also engaged in self-harm, which had not decreased. When T.L. had tantrums, she would hold her head and pull her hair. At the time of the report, T.L. was in the process of obtaining a mental health assessment.

On February 12, 2017, the social worker visited mother at her home in Fresno, where she was renting a room from a person from her church. She indicated she had been receiving psychological visits from a doctor from the Department of Mental Health and reported she was medication compliant. On March 2, 2017, the social worker was informed by T.L.'s foster family that mother had moved to a different address in Fresno.

On March 2, 2017, the jurisdiction/disposition hearing in the Los Angeles County juvenile court was held, and the juvenile court sustained the allegation in the amended petition and adjudged T.L. a dependent child under section 300, subdivision (b)(2). Mother was ordered reunification services; she was ordered to complete parenting classes and mental health treatment and to take all psychotropic medication as prescribed. The court ordered T.L. be placed in foster care in Fresno County because that is where mother lived.

The case was ordered transferred to Fresno County on March 15, 2017. Mother subsequently moved to Tulare County, and the case was transferred to Tulare County on May 5, 2017. The "Acceptance of Transfer Report," filed on May 11, 2017, indicated mother had lived in a room attached to a house in Visalia for about a month. In regard to visits, an addendum report indicated that during visits, mother would "just sit there" on her phone and let T.L. do what she wanted but got frustrated when T.L. would not listen

to her. T.L.'s care providers reported that after visits, T.L. would bite herself, pull her own hair, and throw herself on the floor, and the behavior would stop the following day.

Mother made her first appearance in the Tulare County Superior Court on May 12, 2017. The court noted the proceedings had been prolonged because of mother's moves and encouraged mother to find a stable living situation, so the case would not be transferred again. On June 1, 2017, the court adopted the case plan developed by the Tulare County Health and Human Services Agency (agency). Case plan objectives included goals to "[o]btain and maintain a stable and suitable residence for yourself and your child[]"; and "[c]omply with medical or psychological treatment." Services included parenting classes and a mental health assessment.

On June 9, 2017, mother completed a mental health evaluation and was deemed not eligible for specialized mental health services. The clinic recommended mother continue with her primary care physician and return within three months for a second evaluation if symptoms were to worsen. The clinic directed mother to another clinic she could go to and suggested she ask her social worker for a mental health assessment referral. Mother secured a mental health appointment with the county psychologist scheduled for August 2017.

On June 30, 2017, the social worker met with mother to refer her to the Section 8 housing list. As of July 21, 2017, mother had been renting a room in a home with people she did not know. She was looking for another home and had registered with the housing authorities of Tulare and Fresno counties.

The six-month status review report indicated mother was in compliance with her mental health and parenting services. In regard to visits, the report stated the visiting supervisor said mother did very well with T.L. and engaged and played with her and was bonding well with her. T.L. became aggressive at times during visits by throwing objects and yelling, and mother became frustrated when trying to redirect and calm T.L.

T.L.'s care providers reported that after visits with mother, T.L. had a tendency to throw tantrums, throw toys, and throw herself against the wall or floor. T.L. was referred to therapy for these behaviors. The care providers were concerned because T.L. wanted to eat throughout the day and yelled or scratched herself if she did not get the type of food she wanted. Otherwise, T.L. was doing well in her placement and got along well with the other children in the home.

At the six-month status review hearing on July 28, 2017, the court noted mother was doing well with her services. Mother requested the return of T.L. In response, counsel for the agency expressed concerns regarding mother's housing situation and not yet engaging in mental health services. Mother addressed the court and expressed that her housing was stable, and she was not bipolar. The court informed mother that the allegation she had mental and emotional problems, including bipolar disorder, were found true by the Los Angeles County juvenile court and she should file a section 388 petition if she could offer evidence to the contrary. Mother did not file a section 388 petition to this effect.

The 12-month status review report indicated that on August 22, 2017, mother had an appointment at a mental health clinic and was referred to a psychiatrist at a behavioral center in Exeter. In approximately September 2017, mother moved to the Porterville homeless shelter and was utilizing extensions to be able to stay there for additional time. She attended appointments with her psychiatrist in Exeter with the agency's help with transportation on September 13, 2017, and October 12, 2017. Mother signed a release of information for the agency to receive her medical information. The doctor noted she had a history of bipolar disorder but did not show current signs of the disorder. The medical reports indicated her diagnosis was recurrent depressive disorder and anxiety. At her September appointment, the doctor prescribed an increased dosage of Zoloft and Hydroxyzine Pamoate. At her October appointment, mother's Zoloft prescription was increased, and she was prescribed continued usage of Hydroxyzine Pamoate. Mother

also gave consent for the agency to have copies of signature pages from the shelter from October 12, 2017, to October 28, 2017, which showed she was taking her psychotropic medication during that span of time.

On January 5, 2018, the social worker left a voicemail with the behavioral center where mother was a patient to receive mother's other medical appointments. The social worker did not hear back from the behavioral center as of the writing of the 12-month status review report.

In regard to helping mother find stable housing, the 12-month status review report indicated mother had been connected with the local resource center in Porterville and with a parent partner to help her find and apply for employment in housekeeping and cooking. There were not many possibilities in Porterville but were some in Visalia. Mother stated she did not have anywhere to live in Visalia or know how to utilize public transportation in order to work in Visalia. The report noted that mother was on the housing authority lists, had been referred to the Section 8 housing list, and had been connected to rapid housing through the homeless shelter. Rapid housing could assist her in getting an apartment if she were to have an income. The report indicated that the other way mother could get housing would be to have T.L. in her custody.

The 12-month status review report indicated that mother had been consistent with visits. She was reported to be appropriate with T.L. during visits, to redirect her, and to bring food. The social worker recommended that visits become unsupervised with discretion to allow overnight visits. T.L. was still doing well in her placement, but she was still having issues with wanting to eat throughout the day and acting up after visits. The care providers noted that while T.L. would have tantrums, pull her hair, and scratch her skin near her eye when she sucked her thumb when first placed with the care providers, the care providers had been working with T.L. and had taken her to therapy to address these concerns. The care providers indicated T.L. did not have tantrums or pull her hair anymore. She still scratched the skin by her eye but not as frequently as before.



The care provider indicated she would take T.L. to her therapist if she notices any new concerns.

The social worker found mother to be in compliance with both her mental health services and her parenting classes. The social worker recommended six more months of services and requested discretion to return T.L. to mother.

An addendum to the 12-month status review report was filed January 24, 2018, wherein the social worker modified its recommendation and request. The social worker recommended continued services but no longer requested discretion for overnight visits or return of T.L. to mother's custody. The addendum report indicated that on January 17, 2018, mother called the social worker and stated that the Porterville homeless shelter had informed her they were not going to extend her stay and she would need to leave on January 25, 2018. Mother stated she would be looking for housing at shelters in Dinuba and Fresno. On January 22, 2018, mother called the social worker and stated she was getting kicked out of the shelter that morning and that she needed the agency to pick up her and her belongings and transport her to Visalia. The social worker let mother know he would contact the local resource center to see if they could help her. A staff member at the shelter later informed the social worker they called the police on mother, and mother fled and left her belongings before the police could arrive. The social worker asked the staff member why mother could no longer stay at the shelter, and the staff member stated she could only say that mother was asked to leave. Mother informed the social worker she thought the police were called because she did not leave the property when asked. The social worker also indicated in the addendum report that mother had completed her parenting classes.

At the 12-month status review hearing on January 26, 2018, mother's counsel represented that mother had been accepted into housing in Hanford. Mother informed the court that Tulare Housing Authority called her a month prior, and she was at the top of the list for an apartment, but she would have to have T.L. in her custody first. The court

stated it was inclined to rule, pursuant to a suggestion by T.L.'s counsel, that the social worker would have discretion to return T.L. to mother when she had stable, permanent housing, not housing at a shelter. The court suggested it believed discretion should be exercised to allow unsupervised visits including overnights, and if mother were to prove herself with regard to the overnight visits, the housing authority may consider them "living" with mother for the purpose of awarding housing. In response to this suggestion, counsel for the agency commented that housing was a major issue in the case because it was a chronic problem and that the 18-month deadline would be up on March 28, 2018. Counsel noted mother had been making progress in her case plan but had moved from Tulare County. Counsel expressed concern regarding the effect of mother leaving the county on her ability to participate in counseling and her Tulare County housing application. Counsel stated the agency was no longer requesting discretion to return T.L. because mother had not shown she had resolved the issue with frequent moving from shelter to shelter, and the troubling behaviors T.L. exhibited after visits were being resolved through counseling. Counsel recommended services be continued to the 18-month mark. The juvenile court followed the agency's counsel's recommendation and found substantial detriment should T.L. be returned to mother and justification to exceed time limits and extend reunification services to 18 months.

The 18-month status review report, filed on March 7, 2018, indicated mother had not provided the social worker with paperwork from her psychotropic appointments. The last proof of attendance was from October 2017. Mother continued to reside at the homeless shelter in Hanford and stated she had attempted to locate housing in Tulare and Fresno counties but had been unsuccessful. Because mother moved from Tulare County, mother was no longer connected with her parenting partner who had been assisting her with finding employment. Mother did not visit for the first couple weeks after the previous hearing because the supervising entity was impacted. The report also stated that mother missed 12 out of 15 visits but had been appropriate during the visits she had. The

18-month status review report indicated that T.L.'s behavioral issues were improving. The social worker found that mother was not in compliance with her mental health services and recommended mother's reunification services be terminated.

At the 18-month status review hearing held on April 27, 2018, the court noted that a primary issue in the case was mother's inability to secure a stable environment for T.L. It also noted mother was not complying with the mental health component of her case plan, was not medication compliant, and had missed visits. Based on these reasons, the court terminated reunification services as to mother and set a section 366.26 hearing.

Upon hearing the court's ruling, mother stated to the court that she always visits and is not bipolar. The court admonished mother of her right to file a writ petition, and mother orally indicated she would. She did not file a notice of intent to file a writ petition.

On July 17, 2018, mother filed a section 388 petition. She requested the juvenile court change its order denying her further reunification services and reinstate services because she had found housing. The court summarily denied the petition because "the proposed change of order ... does not promote the best interest of the child."

The section 366.26 report stated mother attended all her visits. However, the supervising staff at mother's visits reported that before visits, T.L. cries and states she does not want to go to the visits and is very angry until after the visits are over. The care providers stated that after visits, T.L. is angry with them and tells them they made her go. T.L. would also self-harm, pick her skin until she bled, and gouge at her eyes. The report indicated T.L. was doing well in her placement, and the care providers reported T.L.'s tantrums have decreased, and her intake of healthy food has improved. The care providers reported T.L. is happy and gets along with the other children in the home. T.L.'s care providers had known T.L. since she was first detained and desired to adopt her.

The section 366.26 hearing was held on August 22, 2018. Mother did not personally appear. Mother's counsel requested legal guardianship on mother's behalf. The court followed the agency's recommendation to find T.L. adoptable and terminated parental rights as to mother. Mother filed a timely appeal to the orders denying her section 388 petition and terminating her parental rights.

## **DISCUSSION**

### **I. Summary Denial of Section 388 Petition**

Mother contends the juvenile court erred in denying, without an evidentiary hearing, her section 388 petition to reinstate family reunification services because her petition established the requisite prima facie showings entitling her to a hearing. We disagree.

A petition to modify a juvenile court order under section 388 must allege facts showing new evidence or changed circumstances exist and changing the order will serve the child's best interests. (§ 388, subd. (a); *In re Nolan W.* (2009) 45 Cal.4th 1217, 1235.) Courts must liberally construe a section 388 petition in favor of its sufficiency. (*In re Marilyn H.* (1993) 5 Cal.4th 295, 309-310.) However, section 388 requires a petitioner to make a prima facie showing of both elements to trigger an evidentiary hearing. (*In re Zachary G.* (1999) 77 Cal.App.4th 799, 806.) If, for instance, the parent makes a prima facie showing of changed circumstances, the juvenile court can still deny the petition without an evidentiary hearing if the parent fails to make a prima facie showing the relief sought would promote the child's best interests. (*In re Justice P.* (2004) 123 Cal.App.4th 181, 188-190; see *In re Elizabeth M.* (1997) 52 Cal.App.4th 318, 322-323.)

"A 'prima facie' showing refers to those facts which will sustain a favorable decision if the evidence submitted in support of the allegations by the petitioner is credited." (*In re Josiah S.* (2002) 102 Cal.App.4th 403, 418.) Consequently, section 388 petitions with general, conclusory allegations do not suffice. Otherwise, the decision to

grant a hearing on a section 388 petition would be nothing more than a pointless formality. (*In re Edward H.* (1996) 43 Cal.App.4th 584, 593.) In determining whether the petition makes the necessary showing, the court may consider the entire factual and procedural history of the case. (*In re Jackson W.* (2010) 184 Cal.App.4th 247, 258.)

We review the juvenile court's summary denial of mother's section 388 petition for abuse of discretion. (*In re C.J.W.* (2007) 157 Cal.App.4th 1075, 1079.) The denial must be upheld unless we can determine from the record that the juvenile court's decisions exceeded the bounds of reason. When two or more inferences can reasonably be deduced from the facts, we have no authority to substitute our decision for that of the juvenile court. (*In re Brittany K.* (2005) 127 Cal.App.4th 1497, 1505.)

In her section 388 petition, mother alleged, to show changed circumstances, that she "has found adequate and stable housing for her daughter." She alleged the requested order was in the best interests of T.L. because the "court had previously found my visits appropriate and what the court deemed in the best interest of my child." The court issued a written form order, denying a hearing on the petition and checking the box which read, "the proposed change of order ... does not promote the best interest of the child." The court *did not check* the box indicating that the request did not state new evidence or a change of circumstances. We cannot say the juvenile court's order exceeded the bounds of reason.

Parent and child share a fundamental interest in reuniting up to the point at which reunification efforts cease. (*In re R.H.* (2009) 170 Cal.App.4th 678, 697, overruled on other grounds in *John v. Superior Court* (2016) 63 Cal.4th 91.) By the time of a section 366.26 hearing to select and implement a child's permanent plan, however, the interests of the parent and the child have diverged. (*Cynthia D. v. Superior Court* (1993) 5 Cal.4th 242, 254 (*Cynthia D.*)). After reunification efforts have terminated, the court's focus shifts from family reunification toward promoting the child's needs for permanency and

stability. (*In re Marilyn H.*, *supra*, 5 Cal.4th at p. 309.) We find the juvenile court ruled in accordance with this shift in focus.

The prospect of an additional six months of reunification to see if mother would and could comply with mental health services and obtain stable housing would not have promoted stability for T.L. and thus would not have promoted her best interests. (See *In re Edward H.*, *supra*, 43 Cal.App.4th at p. 594.) T.L. was an infant when removed from mother's care and therefore was a dependent of the court longer than she was in mother's care. Over the course of the reunification process, T.L. exhibited distress before, during, and after visits with mother. She was doing well with her current care providers, and many of the behavioral issues she had at the beginning of the dependency proceedings had improved. Further, her care providers had expressed desire to adopt T.L. at the time of the writing of the 18-month status review report. After reunification services have been terminated, adoption is the first choice of a permanent plan in order to advance the needs of the child for permanence and stability. Adoption gives the child the best chance at a full emotional commitment from a responsible caretaker. (*In re Celine R.* (2003) 31 Cal.4th 45, 52-53.)

Further, T.L. was under three years old at the time of removal. The court had already extended services to 18 months, which was outside the limit for a child under three; the court did not have a viable option to continue reunification services any longer. (§§ 361.5, subd. (a)(1)(B), 366.22.)

Mother's allegation that the order was in the best interest of T.L. because the court previously stated that visits were in her best interest is unavailing. The record revealed that although visits with mother went fine, and in some cases, well, T.L. exhibited distress before and after visits with mother, the intensity of which seemed to increase over time. Continued services would have conflicted with the court's interest in stability for T.L.

We also point out that though the juvenile court based its summary denial of mother's 388 petition on the grounds the order would not be in the best interest of T.L., mother's allegation of changed circumstances was also weak. It was conclusory as it did not give any facts pertaining to why mother's living situation was stable or whether it was permanent. It is worth noting that mother's address in the section 366.26 report was different than the address she provided in her section 388 petition.

The juvenile court did not abuse its discretion by summarily denying mother's section 388 petition.

## **II. Termination of Parental Rights**

Mother contends the juvenile court erred by terminating her parental rights in the absence of clear and convincing evidence demonstrating she was an unfit parent. As the parties point out, due process requires such a finding. (*Santosky v. Kramer* (1982) 455 U.S. 745, 758; *In re Gladys L.* (2006) 141 Cal.App.4th 845, 848.) California's dependency system comports with due process requirements because, by the time parental rights are terminated at a section 366.26 hearing, the juvenile court must have made prior findings that the parent was unfit. (*Cynthia D.*, *supra*, 5 Cal.4th at p. 254.) The cornerstone to the constitutionality of the section 366.26 hearing is that prior determinations ensure "the evidence of detriment is already so clear and convincing that more cannot be required without prejudice to the interests of the adoptable child, with which the state must now align itself." (*Cynthia D.*, at p. 256.)

Mother claims the findings that return of T.L. to mother would be detrimental to T.L. made at the 12- and 18-month status review hearings were impermissibly solely based on poverty-related housing instability and thus did not support by clear and convincing evidence the court's ultimate order terminating mother's parental rights. Mother relies on *In re P.C.* (2008) 165 Cal.App.4th 98 (*P.C.*) and *In re G.S.R.* (2008) 159 Cal.App.4th 1202 (*G.S.R.*). Both cases are inapposite.

In *G.S.R.*, the juvenile court terminated the parental rights of a nonoffending, noncustodial father. He argued that his due process rights had been violated because he was a nonoffending parent who had never been found to be unfit. (*G.S.R.*, *supra*, 159 Cal.App.4th at p. 1209.) The appellate court found that the juvenile court never made a finding of parental fitness as to the children's father; rather the court's findings throughout the proceedings concerned only the children's mother. (*Id.* at p. 1211.) Further, the court found that all the father's issues with domestic violence and substance abuse had been resolved prior to the filing of the original dependency petition, and the only matter unresolved at the dispositional stage was the father's inability to afford appropriate housing. (*Id.* at pp. 1213-1215.) The reviewing court found that the father's indigency, standing alone, was not a legitimate basis for deeming the father unfit. (*Ibid.*)

At the time of the children's removal, the father in *G.S.R.* was not living with his children and there were no allegations in the juvenile dependency petitions that the father committed any acts constituting parental unfitness. There were no alleged violations by the father of the Welfare and Institutions Code. (*In re Gladys*, *supra*, 141 Cal.App.4th at p. 848, *G.S.R.*, *supra*, 159 Cal.App.4th at pp. 1211-1212.) In the instant case, on the other hand, mother was an alleged offending, custodial parent. A petition was properly filed against mother and the court's findings of detriment were properly based upon mother's inability to protect and provide for T.L.'s physical and emotional well-being. *G.S.R.* is not persuasive authority in this case, because the court's findings of detriment pertained to mother.

In *P.C.*, the appellant, like mother here, was an alleged offending, custodial parent. In *P.C.*, the juvenile dependency petition alleged the mother, the appellant, had physically abused her children and had left them with a caretaker without providing any means of support or information as to the mother's whereabouts. The father allegedly had committed domestic violence against the mother in the presence of the children. (*P.C.*, *supra*, 165 Cal.App.4th at p. 100.) During the reunification period, the mother



completed her case plan, separated from the father, and resolved the problems that had led to removal of her children. (*Id.* at pp. 101, 105.) Nevertheless, the juvenile court in *P.C.* terminated reunification services, set a section 366.26 hearing, and ultimately terminated parental rights because the mother was unable to provide suitable housing for the children. (*P.C.*, at p. 102.) On appeal, the court in *P.C.* reversed termination of parental rights on the ground that the findings of detriment based solely on the mother's inability to find suitable housing due to poverty was an insufficient basis for terminating her parental rights. (*Id.* at p. 107.)

Although the instant case is similar to *P.C.* in that mother is an alleged offending, custodial parent, it is distinguishable in that the record in *P.C.* made clear the court's detriment findings were solely based on poverty-related housing instability. In *P.C.*, the social worker testified at the section 366.26 hearing that the mother had completed her case plan and that the sole basis for the agency's recommendation that the children be adopted was the mother's inability to obtain suitable housing. (*P.C.*, *supra*, 165 Cal.App.4th at pp. 101-102.)

In contrast, the record in the instant case shows the detriment findings at the 12- and 18-month status review hearings were not solely based on poverty-related housing instability. At the 12-month status review hearing, mother had completed her parenting classes, and appeared to be attending her mental health appointments, but mother's move to Hanford, which occurred days before the hearing, took her out of the county and away from services, as well as her housing authority application. Another concern was that mother's housing was a domestic violence shelter, and the agency was not aware mother was in a relationship with domestic violence. Further, T.L. had continued to display troubling behaviors. The court's finding that return of T.L. to mother was detrimental at the 12-month status review hearing was not solely based on housing instability.

At the 18-month status review hearing, the court found mother was not complying with the mental health component of her case plan. Further, as T.L.'s counsel pointed out

at the hearing, T.L. still continued to have behavior issues after visiting with mother. The finding that return of T.L. to mother was detrimental at the 18-month status review hearing, like that made at the 12-month hearing, was not solely based on housing instability.

Despite the record demonstrating that poverty-related housing instability was not the sole reason for the detriment findings, and therefore not the sole basis for terminating parental rights, mother insists we find error by essentially arguing those findings of detriment were based on insufficient evidence. She points out inconsistencies in the record and makes arguments that the evidence was insufficient to support some of the court's factual statements. By doing so, mother essentially asks us to reweigh the evidence and ignore factual findings made by the juvenile court and resolve inconsistencies in the record in her favor. We are precluded from doing this and are bound by the record before us.

If mother believed the juvenile court at any point did not make the requisite findings or the findings of detriment were not supported by sufficient evidence at the time made, she could have raised those challenges in an appeal from those orders. She did not appeal any prior order, and thus forfeited her argument that the juvenile court never made sufficient detriment findings before it terminated her parental rights. (*Wanda B. v. Superior Court* (1996) 41 Cal.App.4th 1391, 1396.) An appeal from the most recent order entered in a dependency matter may not challenge prior orders for which the statutory time for filing an appeal has passed. (*Sara M. v. Superior Court* (2005) 36 Cal.4th 998, 1018.) Permitting a parent to raise issues going to the validity of a final earlier appealable order directly undermines dominant concerns of finality and reasonable expedition, including the child's and the state's predominant interests. (*Ibid.*)

It is also important to note that the record supports mother's housing instability was not solely based on poverty. Her moving from place to place was a pattern of behavior alleged in the dependency petition to be connected to her mental health

problems and caused detriment to T.L. These allegations were sustained by the juvenile court. Again, mother never appealed the dispositional, or any, order. This is another distinction from *P.C.*, where the juvenile court dismissed an allegation in the petition that mother was homeless and unable to provide a stable residence for the children because lack of stability in a place to live “ ‘would not be such ... in and of itself to warrant the court’s assumption of jurisdiction.’ ” The appellant had been homeless for three weeks. (*P.C.*, *supra*, 165 Cal.App.4th at pp. 100-101.) In contrast, mother was not experiencing situational homelessness. She reported to her psychiatrist during the proceedings she was 40 years old, had never worked, and gets money from “cash” and family. Since mother and T.L. came to the attention of social services, mother had moved from Los Angeles; to allegedly Cleveland, Ohio; to Mexico; to the San Ysidro border where she was detained; to two home addresses in Fresno; to a home address in Visalia; to a homeless shelter in Porterville; to a shelter in Hanford; to a home address in Visalia; and to a homeless shelter in Fresno. The record supports the sustained finding that mother’s frequent moving appeared to be caused by mother’s mental and emotional problems, not solely due to poverty.

Though mother completed her parenting classes and had made some progress in her mental health services, this progress did not correct the problem of frequent moving, as mother continued her pattern. Mother was unfortunately either unable or unwilling to take advantage of the assistance the agency offered with obtaining employment and housing. This is yet another distinction from *P.C.*, as one of the issues in that case is that the agency did not focus on assisting the appellant with obtaining secure housing. The social worker did not timely obtain the appellant’s signature on the family unification referral that might have moved her higher on the low-income housing list. The social worker simply recommended the appellant look in the Pennysaver for housing, and admittedly was unaware of other resources to which she could refer mother for low-

income housing. (*P.C., supra*, 165 Cal.App.4th at p. 106.) That was not the case here; the agency made ample effort to assist mother with employment and housing.

Further, and of paramount importance, the record supports mother's frequent moving had a detrimental effect on T.L., as she had many serious behavioral issues when first detained, including engaging in self-harm, which began to subside once she was given some treatment and stability.

The juvenile court did not err by ordering mother's parental rights as to T.L. be terminated.

**DISPOSITION**

The juvenile court's orders are affirmed.

\_\_\_\_\_  
DE SANTOS, J.

WE CONCUR:

\_\_\_\_\_  
POOCHIGIAN, Acting P.J.

\_\_\_\_\_  
DETJEN, J.